இணைப்பு III.

(26....ஆம் பக்கத்தில் இனம் 5 (2) க்கான அடிக்குறிப்பைக் காண்க).

(AS PASSED BY THE ASSEMBLY)

L.A. Bill No. 7 of 1975.

A Bill to provide temporary relief to indebted agriculturists.

WHEREAS there has been widespread drought;

AND WHEREAS the agriculturists have borrowed debts and may, if freed for a time from the pressure of creditors, be enabled to rehabilitate themselves;

AND WHEREAS it is in the interests of the general public that at the present time, agriculturists be spared the distractions and expenditure involved in litigation launched by their creditors, in order that the maximum possible advantage may result to the State in the matter of production of foodcrops;

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-sixth Year of the Republic of India as follows:—

1. *Short title extent and commencement.*— (1) This Act may be called the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1975.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall be deemed to have come into force on the 16th January 1975.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(*a*) 'agricultural land' means land used for agriculture or horticulture, not being land appurtenant to a residential buildings;

(*b*) 'agriculturist' means a person who owns an interest in agricultural land, and who, by reason of such interest, is in possession of such land or is in receipt of the rents or profits thereof and shall include a lessee, but shall not include—

(i) a firm registered under the Indian Partnership Act, 1932 (Central Act IX of 1932), or a company as defined in the

Companies Act, 1956 (Central Act 1 of 1956), or a corporation formed in pursuance of an Act of Parliament of the United Kingdom or of any special Indian law, or

(ii) any person who was assessed to income-tax under the Income-tax Act, 1961 (Central Act 43 of 1961) or to agricultural income-tax under the Tamil Nadu Agricultural Income-tax Act, 1955 (Tamil Nadu Act V of 1955) or to sales-tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959), or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) in any of the years 1971–72, 1972–73, 1973–74.

Explanation—Where a joint Hindu family or a tarwad, tavazhi, kutumba or kavaru is an agriculturist, every co-parcener or member of the tarwad, tavazhi, kutumba or kavaru, as the case may be, shall be deemed to be an agriculturist provided that he has not been assessed to income-tax or agricultural income-tax or sales-tax in any of the years 1971–72, 1972–73, 1973–74.

(*c*) 'debt' means any sum of money which a person is liable to pay under a contract (express or implied) for consideration received and includes rent in cash or kind which a person is liable to pay or deliver in respect of the lawful use and occupation of agricultural land.

Exption I.—For the purpose of this clause, "rent" in relation to agricultural land shall mean rent accrued due for the fasli year ending with the 30th June 1974 and for any previous fasli year.

Explanation II.—It is immaterial that the sum or produce is recoverable only by sale of property in enforcement of a mortgage or charge or that the contract was entered into by the person's predecessor-in-title or by the manager of the joint Hindu family or the karanavan of the tarwad or tavazhi or the yajaman of the kutumba or kavaru of which such person was or is a member.

Exception.—' Debt ' does not include—

(i) rent or compensation for the use and occupation of house property ;

(ii) rent or compensation for the use and occupation of immovable property (not being house property or agricultural land) accrued due after the date of the commencement of the Act;

(iii) any liability arising out of a breach of trust ;

(iv) any liability in respect of maintenance ;

(v) any sum payable to the State or the Central Government or to any local authority, whether by way of revenue, tax, cess, or loan or otherwise ;

(vi) any sum payable to any co-operative society, including a land development bank, registered or deemed to be registered under the Tamil Nadu Co-operative Societies Act, 1961 (Tamil Nadu Act 53 of 1961), provided that the right of the society to recover the sum did not arise by reason of an assignment made subsequent to the 15th September 1974 ;

(vii) wages or remuneration due as salary, or otherwise for service rendered ;

(viii) any liability in respect of any sum due to—

(A) any banking company to which the Banking Regulation Act, 1949 (Central Act X of 1949) applies ;

(B) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act XXIII of 1955) ;

(C) any subsidiary bank as defined in clause (*k*) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959) ;

(D) any corresponding new bank as defined in clause (*d*) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) ;

(E) the Agricultural Re-finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Central Act I of 1956) ;

(F) any other financial institution notified by the State Government in the *Tamil Nadu Government Gazette* ;

(*d*) 'pay' with its grammatical variations, includes deliver ;

(*e*) 'suit' or 'application' does not include an appeal from a decree or order passed in a suit or application or an application for revision or review.

3. *Bar of suits and applications.*—No suit for the recovery of a debt shall be instituted, no application for the execution of a decree for payment of money passed in a suit for the recovery of a debt shall be made, and no suit or application for the eviction of a tenant on the ground of non-payment of a debt shall be instituted or made, against any agriculturist in any civil or revenue court before the expiry of a year from the date of the commencement of this Act.

Explanation I.—' Suit ' does not include a claim to a set-off made in a suit instituted by an agriculturist.

Explanation II.—Where a debt is payable by an agriculturist jointly or jointly and severally with a non-agriculturist, no suit or application of the nature mentioned in this section shall be instituted or made either against the non-agriculturist or against the agriculturist before the expiry of the period mentioned in this section.

Explanation III.—A suit shall be deemed to be a suit for the recovery of a debt notwithstanding that other reliefs are prayed for in such suit, and a decree shall be deemed to be a decree for payment of money passed in such suit notwithstanding that other reliefs are granted by such decree ;

Provided that a suit for possession of land shall not be deemed to be a suit for recovery of a debt by reason merely of mesne profits being also prayed for in such suit.

4. *Stay of proceedings.*—(1) All further proceedings in suits and applications of the nature mentioned in section 3 in which relief is claimed against an agriculturist, not being proceedings for the amendment of pleadings or for the addition, substitution, or the striking off of parties, but otherwise inclusive of proceedings consequent on orders or decrees made in appeals, revision petitions, or applications for review, shall, subject to the next succeeding sub-section, stand stayed until the expiry of a year from the date of the commencement of this Act :

Provided that in regard to property under attachment the court may pass such orders as it deems necessary for the custody or preservation of the property or for the sale of such property, if it is subject to speedy or natural decay, or if in respect of it the expenses of custody or preservation are considered excessive.

(2) On application made by the defendant or the respondent or by all the defendants or all the respondents, as the case may be the stay effected by sub-section (1) in a suit or application shall be dissolved and the suit or application shall be proceeded with from the stage which had been reached when further proceedings in the suit or the application were stayed.

5. *Exclusion of time for limitation*—(1) In computing the period of limitation or limit of time prescribed for a suit for the recovery of a debt or an application for the execution of a decree passed in such suit, the time during which the institution of the suit or the making of the application was barred by section 3 of this Act, or during which the plaintiff or his predecessor-in-title, believing in good faith that section 3 of this Act applied to such suit or such application, refrained from instituting the suit or making the application, shall be excluded.

Explanation—" good faith " shall have the meaning assigned to it in section 3 (22) of the General Clauses Act, 1897 Central Act X of 1897).

(2) Where in a suit or an application in which the question of the exclusion of time under sub-section (1) arises the defendant or the respondent, or one of the defendants or respondent with respect to whom the question is raised, would have been an agriculturist but for the fact that in the year ending 1971–72, 1972-73 or 1973-74 he had been assessed to income-tax under the Income-tax Act, 1961 (Cetral Act 43 of 1961) or to agricultural income tax under the Tamil Nadu Agricultural Income-tax Act 1955 (Tamil Nadu Act V of 1955) or sales-tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) or under the Central Sales-tax Act 1956 (Central Act 74 of 1956), it shall be conclusively presumed that in refraining from instituting the suit or making the application, the creditor believed in good faith that such defendant or respondent was an agriculturist.

6. *Effect of transfer of immovable property by the debtor*.—Every transfer of immovable property by a debtor entitled to the benefit of section 3 or section 4, made after the date of the commencement of this Act and before the expiry of a year from the date of the commencement of this Act, shall, in any suit or other

proceeding, with respect to such transfer, be presumed, until the contrary is proved, to have been made with intent to defeat or delay the creditors of the transferee.

7. *Act to override other laws, contracts, etc.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955), the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961), the Malabar Tenancy Act, 1929 (Tamil Nadu Act XIV of 1930), the Tamil Nadu Cultivating Tenants (Special Provisions) Act, 1968 (Tamil Nadu Act 16 of 1968), the Tamil Nadu Cultivating Tenants Arrears of Rent (Relief) Act, 1972 (Tamil Nadu Act 21 of 1972), or in the Code of Civil Procedure, 1908 (Central Act V of 1908), or in any other law for the time being in force, or any custom, usage or contract, or decree or order of a Court or other authority.

8. *Power to make rules.*—(1) The State Government may make rules to carry out the purposes of this Act.

(2) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette*, and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(3) Every rule made under this Act shall, as soon as possible, after it is made, be placed on the table of both Houses of the Legislature and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. *Repeal.*—The Tamil Nadu Indebted Agriculturists (Temporary Relief) Ordinance, 1975 (Tamil Nadu Ordinance 1 of 1975), is hereby repealed.